UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEFF TAYLOR, NOEL MORIN, ANNETE GOODWINE, VICKY SZE, KEVIN W. COONEY, JAMES HSIN, ELAINE FUNG, and VERED SHAVIV

Appeal 2006-2997
Application 09/881,911
Technology Center 1700

Decided: March 23, 2007

Before MURRIEL E. CRAWFORD, ANITA PELLMAN GROSS, and ANTON W. FETTING, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Taylor, Morin, Goodwine, Sze, Cooney, Hsin, Fung, and Shaviv (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's final

rejection of claims 1, 2, 4 through 18, 20 through 35, which are all of the claims pending in this application.

Appellants' invention relates to a method, in a network-based auction, for pre-approving a bidder or buyer for a particular sale listing. Claim 1 is illustrative of the claimed invention and reads as follows:

1. A method to pre-approve a bidder for network-based shopping, the method including:

> receiving an authorization communication, over a network, at a network-based auction facility, the authorization communication to authorize the bidder to bid on a particular sale listing that is listed for sale by a seller; and
>
> at the network-based auction facility, automatically recording the bidder as authorized to bid on the particular sale listing responsive to the authorization communication.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Walker	US 6,240,396 B1	May 29, 2001
Stewart	US 2001/0049634 A1	Dec. 06, 2001
	(effectively filed	Mar. 06, 2000)
Kumar	US 2002/0042755 A1	Apr. 11, 2002
	(effectively filed	Oct. 05, 2000)
Friedland	US 2002/0174060 A1	Nov. 21, 2002
	(effectively filed	Dec. 30, 1998)

Claims 1, 2, 4, 6, 10, 11, 13 through 18, and 20 through 35 stand rejected under 35 U.S.C. § 103 as being unpatentable over Stewart[1].

[1] The Examiner included claims 3 and 19 in this rejection (Answer 4), but those claims have been cancelled.

Claims 7, 8, and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Stewart in view of Friedland.

Claims 9 stands rejected under 35 U.S.C. § 103 as being unpatentable over Stewart in view of Walker.

Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over Stewart in combination with Friedland and Kumar.

We refer to the Examiner's Answer (mailed February 8, 2006) and to Appellants' Brief (filed December 7, 2005) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will reverse the obviousness rejections of claims 1, 2, 4, 6, 10, 11, 13 through 18, and 20 through 35.

OPINION

Appellants contend (Br. 9-10) that Stewart fails to teach, and actually teaches away from, the claim limitation of authorizing a bidder to bid on a particular sales listing. Specifically, Appellants contend (Br. 9-10) that Stewart's disclosure of eliminating the need for the seller member to repeatedly requalify a buyer member when each product order is enforced teaches away from authorizing a bidder or buyer for a particular item for sale. The Examiner asserts (Answer 7) that "[t]he term 'particular' does not further distinguish over the prior art of record. Since Steward [sic] discloses authorization for all sale listings, this encompasses a 'particular' listing." We disagree with the Examiner.

Independent claim 1 recites, in pertinent part, "to authorize the bidder to bid on a particular sale listing," and "authorized to bid on the particular

sale listing." The other independent claims include similar language. The Specification states (Specification, p. 6, para. 0021) that the term "listing" is used interchangeably with "item." Thus, all of the claims require authorization for a particular item, not for plural products or purchases.

Stewart discloses (Stewart, para. 0057) that once a buyer member becomes registered with a seller member, the buyer member will be permitted to view and purchase from seller product catalogs and bid on auction products. Product information is made available to buyers who have been authorized and are interested in particular products (see Stewart, para. 0081). Also, buyers who have been authorized by the seller can place orders with the seller, and only authorized buyers can purchase products (see Stewart, para. 0091). Further, Stewart discloses (Stewart, para. 0091) that the seller's individual authorization of buyers "eliminat[es] the need for the seller member to repeatedly requalify a buyer member when each product order is enforced." In other words, Stewart discloses that authorization is for multiple purchases and/or multiple products, not for a particular sale listing (or item), as recited in the claims. Since Stewart explicitly wants to eliminate having to authorize buyers for each purchase, we find no suggestion in Stewart to modify the teachings therein to authorize for a particular sale listing. Accordingly, we cannot sustain the obviousness rejection of claims 1, 2, 4, 6, 10, 11, 13 through 18, and 20 through 35.

Regarding claims 5, 7 through 9, and 12, Friedland, Walker, and Kumar fail to cure the deficiency in Stewart noted *supra*. Therefore, the combinations of Stewart with Friedland, Walker, and Kumar fail to establish a prima facie case of obviousness. Consequently, we cannot sustain the obviousness rejections of claims 5, 7 through 9, and 12.

ORDER

The decision of the Examiner rejecting claims 1, 2, 4 through 18, and 20 through 35 under 35 U.S.C. § 103 is reversed.

REVERSED

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